

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition, the Magistrate Judge’s Report and Recommendation, Petitioner’s Objections to the Report and Recommendation, and the remaining record, and has made a *de novo* determination.

Petitioner's Objections to the Report and Recommendation regurgitate the arguments made in the Petition and Reply, and lack merit for the reasons set forth in the Report and Recommendation.

Petitioner also objects to the Magistrate Judge’s denial of his evidentiary hearing and discovery motions, which were filed on May 26, 2010, and denied on June 9, 2010. [See Dkt. Nos. 17-19.] Petitioner’s objections to such motions are untimely. *See* Fed. R. Civ. P. 72(a) (“A party may serve and file objections to the order within 14 days after being served with a copy. A party may not assign as

1 error a defect in the order not timely objected to.”) In any event, the Court finds
2 that the Magistrate Judge’s denial of those motions was not clearly erroneous or
3 contrary to law for the reasons stated in the Magistrate Judge’s June 9, 2010 Order.
4 *See id.*

5 Accordingly, IT IS ORDERED THAT: (1) the Report and Recommendation
6 is approved and adopted; (2) Judgment be entered denying the Petition and
7 dismissing this action with prejudice; and (3) the Clerk serve copies of this Order
8 and the Judgment on the parties.

9 Additionally, for the reasons stated in the Report and Recommendation, the
10 Court finds that Petitioner has not made a substantial showing of the denial of a
11 constitutional right. *See* 28 U.S.C. § 2253; Fed. R. App. P. 22(b); *Miller-El v.*
12 *Cockrell*, 537 U.S. 322, 336 (2003). Thus, the Court declines to issue a certificate
13 of appealability.

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15 DATED: July 7, 2011

16 RONALD S.W. LEW

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18 HON. RONALD S.W. LEW
19 SENIOR UNITED STATES DISTRICT JUDGE

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